

instrument having a shaft with proximal and distal ends and an electrode assembly at the distal end of the shaft, the electrode assembly comprising an active electrode spaced from a return electrode, and a power supply coupled to the electrode assembly for applying a sufficient high frequency voltage difference between the active and return electrodes to remove the stratum corneum of the patient's outer skin without removing the entire epidermis layer. As a result, Langberg fails to anticipate claim 24, and any claims ultimately dependent therefrom.

To speed prosecution of the subject case, applicant amended claim 24 by incorporating the elements of claim 28. Accordingly, this rejection should be withdrawn. The amendment of claim 24 should not be construed as conceding to the above rejection as applicant reserves the right to pursue the claim in any continuing application.

Applicant also disagrees with the rejection of claim 27. Langberg fails to teach or suggest a loop electrode extending from an electrically insulating support member. Accordingly, applicant submits that newly added claim 54 is allowable.

For the reasons set forth above, applicant requests withdrawal of this rejection.

35 U.S.C. §103

The Office Action rejected claims 26, 31, and 32 under 35 U.S.C. §103(a) as being unpatentable over Lamberg in view of Bales et al. Without addressing the propriety of this rejection, applicant notes that the amendments made herein renders this rejection moot. Bales et al. does nothing to overcome the deficiencies of Lamberg as provided above.

Applicant respectfully requests withdrawal of this rejection.

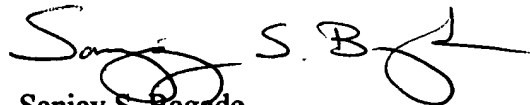
Allowable Subject Matter

Applicant wishes to express their gratitude to the Examiner for the indication that claims 1-23 are allowed, and that claims 28-30, and 33-38 would be allowable if re-written in independent form including all of the limitations of the base claim and any intervening claims.

SUMMARY

Applicant believes all outstanding issue raised in the previous Office Action are addressed herein and that the claims are in condition for allowance. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (408) 736-0224.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sanjay S. Bagade", with a stylized flourish at the end.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claims 28, 30, and 32 are cancelled.

Claim 24, 27, 36, 37, and 38 are amended.

A marked up version of the claims follows:

24. (amended) An apparatus for applying electrical energy to a patient's outer skin comprising:

an electrosurgical instrument having a shaft with proximal and distal ends and an electrode assembly at the distal end of the shaft, the electrode assembly comprising an active electrode spaced from a return electrode;

a fluid delivery element for delivering electrically conductive fluid between the active and return electrodes, and

a power supply coupled to the electrode assembly for applying a sufficient high frequency voltage difference between the active and return electrodes to remove the stratum corneum of the patient's outer skin without removing the entire epidermis layer.

27. (amended) The apparatus of claim ~~[24]~~ 25 wherein the active electrode comprises a loop electrode extending from the electrically insulating support member.

36. (amended) The system of claim ~~[28]~~ 24 wherein the active and return electrodes are configured, upon the application of a sufficient high frequency voltage in the presence of electrically conductive fluid, to generate a plasma adjacent to the tissue ~~[within the chamber]~~.

VERSION WITH MARKINGS TO SHOW CHANGES MADE (CONT)

37. (amended) The system of claim 36 wherein the plasma is generated at a location spaced a distance of about 0.05 to 1.5 mm from the tissue, wherein the active and return electrodes are configured, upon the application of a sufficient high frequency voltage in the presence of electrically conductive fluid, to accelerate ions from the plasma [~~in the chamber~~] such that the ions contact the tissue, the ions having sufficient energy to ablate the contacted tissue.

38. (amended) The system of claim ~~[28]~~ 24 further comprising an aspiration lumen having distal opening coupled to the [~~chamber~~] distal end of the shaft for aspirating fluid between the active electrode and the tissue [~~from the chamber~~].